

In the Matter of Merchant Mariner's Document No. Z-168137 and all other Seaman Documents  
Issued to: NICHOLAS A. LEVITSKY

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1182

NICHOLAS A. LEVITSKY

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.11-1.

By order dated 15 December 1959, an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that, on or about 30 October 1959, Appellant was convicted by the United States District Court for the Eastern District of Pennsylvania, a court of record, for violations of the narcotic drug laws of the United States in March 1954 (unlawfully receiving, concealing and selling heroin in violation of 21 U.S.C. 174, 26 U.S.C. 2553(a) and 26 U.S.C. 2554(a)).

At the hearing, Appellant was represented by counsel of his own choice. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced documentary evidence proving the conviction alleged. As a result of this conviction, Appellant was placed on probation by the District Court.

Appellant testified in his defense. He admitted using narcotics prior to his employment as a seaman in July 1954, but claims that he has never used narcotics since this time and that he sailed steadily between 1954 and 1959.

The Examiner concluded that the charge and specification had been proved. He then entered an order revoking all documents issued to Appellant.

Appellant has no prior record.

On appeal, it is contended that appellant has been completely rehabilitated through his own efforts; he has not been in any trouble of any kind since going to sea in 1954; this is Appellant's only means of supporting his wife and two children. Counsel urges that the decision of the Examiner should be reversed and Appellant's document returned to him.

APPEARANCE: Leidner and Leidner of Philadelphia, Pennsylvania, by Milton S. Leidner,  
Esquire of Counsel.

OPINION

There is evidence that Appellant no longer uses or is involved with narcotics in any manner. As he testified, Appellant has been sailing steadily since July 1954 without causing any trouble. The probation by the United States District Court, after investigation, also indicates that Appellant has made favorable adjustments since 1954.

Although the order of revocation will be sustained, the above reasons persuade me to grant clemency to the extent that Appellant may make application to the Commandant for a new document at this time rather than waiting for the expiration of the usual three-year period after revocation,

There is no assurance that the action taken on such an application will be favorable to Appellant. The burden is on Appellant to show that he has been completely rehabilitated.

ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 15 December 1959, is  
AFFIRMED.

J. A. Hirshfield  
Vice Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D. C., this 12th day of July 1960.